

REFERENCE TITLE: county land divisions; requirements

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2642**

Introduced by  
Representatives Brown: Lopes

AN ACT

AMENDING SECTION 11-809, ARIZONA REVISED STATUTES; RELATING TO COUNTY LAND DIVISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 11-809, Arizona Revised Statutes, is amended to  
3 read:

4           11-809. Review of land divisions: definitions

5       A. The board of supervisors of each county may adopt ordinances and  
6 regulations pursuant to this section for staff review and approval of land  
7 divisions of five or fewer lots, parcels or fractional interests. ~~, any of~~  
~~which is ten acres or smaller in size. The county may not deny approval of~~  
~~any land division that meets the requirements of this section. If review of~~  
~~the request is not completed within thirty days after receiving the request,~~  
~~the land division is considered to be approved. At its option, the board of~~  
~~supervisors may submit a ballot question to the voters of the county to allow~~  
~~the voters to determine the application of subsections B and C to qualifying~~  
~~land divisions in that county.~~

8       B. An application to split a parcel of land PURSUANT TO SUBSECTION A  
9 shall be approved if ALL OF THE FOLLOWING APPLY:

10      1. The lots, parcels or fractional interests each meet the minimum  
11 applicable county zoning requirements of the applicable zoning designation.

12      2. The applicant provides a standard preliminary title report or other  
13 acceptable document that demonstrates legal access to the lots, parcels or  
14 fractional interests BEING CREATED.

15      3. The applicant provides a statement from a licensed surveyor or  
16 engineer, or other ~~evidence~~ acceptable DOCUMENT to the county, ~~stating~~  
17 ~~whether~~ DEMONSTRATING THAT each lot, parcel or fractional interest BEING  
18 CREATED has physical access ~~that is traversable by a two-wheel drive~~  
19 ~~passenger motor vehicle.~~

20      4. The applicant reserves the necessary and appropriate utility  
21 easements to serve each lot, parcel or fractional interest created by the  
22 land division.

23      5. THE APPLICANT SUBMITS FOR REVIEW ANY TOPOGRAPHIC, HYDROLOGIC OR  
24 OTHER STATE CONSTRAINTS, REQUIREMENTS OR LIMITATIONS THAT ARE NECESSARY FOR  
25 PUBLIC HEALTH, SAFETY AND WELFARE AND THAT MUST BE ADDRESSED AS CONDITIONS TO  
26 THE ISSUANCE OF A BUILDING OR USE PERMIT.

27      6. THE APPLICANT PROVIDES DOCUMENTATION THAT LOTS CREATED HAVE  
28 REASONABLE ACCESS TO WATER FOR DOMESTIC USE AND FIRE CONTROL.

29      C. An application to split a parcel of land that does not comply with  
30 one or more of the items listed in subsection B ~~shall still~~ MAY be approved  
31 if the applicant provides an acknowledgment that is signed by the applicant  
32 and that confirms that no building or use permit will be issued by the county  
33 until the lot, parcel or fractional interest has met the requirements of  
34 subsection B. The county may grant a variance from one or more of the items  
35 listed in subsection B.

36      D. ~~Any approval of a land division under this section may:~~

1       1. ~~Include the minimum statutory requirements for legal and physical  
2 on site access that must be met as a condition to the issuance of a building  
3 or use permit for the lots, parcels or fractional interests.~~

4       2. ~~Identify topographic, hydrologic or other site constraints,  
5 requirements or limitations that must be addressed as conditions to the  
6 eventual issuance of a building or use permit. These constraints,  
7 requirements or limitations may be as noted by the applicant or through  
8 county staff review, but there shall be no requirement for independent  
9 studies.~~

10      E. ~~If the requirements of subsections A through D do not apply, a  
11 county may adopt ordinances and regulations pursuant to this chapter for  
12 staff review of land divisions of five or fewer lots, parcels or fractional  
13 interests but only to determine compliance with minimum applicable county  
14 zoning requirements and legal access, and may grant waivers from the county  
15 zoning and legal access requirements. The county may not deny approval of  
16 any land division that meets the requirements of this section or where the  
17 deficiencies are noticed in the deed. A county may not require a public  
18 hearing on a request to divide five or fewer lots, parcels or fractional  
19 interests, and if review of the request is not completed within thirty days  
20 from receipt of the request, the land division shall be deemed approved. If  
21 no legal access is available, the legal access does not allow access by  
22 emergency vehicles or the county zoning requirements are not met, the access  
23 or zoning deficiencies shall be noticed in the deed. If a county by  
24 ordinance requires a legal access of more than twenty-four feet roadway  
25 width, the county is responsible for the improvement and maintenance of the  
26 improvement.~~

27      D. If the legal access does not allow access to the lots, parcels or  
28 fractional interests by emergency vehicles, neither the county nor its agents  
29 or employees are liable for damages resulting from the failure of emergency  
30 vehicles to reach such lot, parcel or fractional interest.

31      F. E. It ~~shall be~~ IS unlawful for a person or group of persons acting  
32 in concert to attempt to avoid the provisions of this section or the  
33 subdivision laws of this state by acting in concert to divide a parcel of  
34 land into six or more lots or sell or lease six or more lots by using a  
35 series of owners or conveyances. This prohibition may be enforced by any  
36 county where the division occurred or by the state real estate department  
37 pursuant to title 32, chapter 20.

38      G. F. In FOR THE PURPOSES OF this section:

39       1. "Legal access" means a ~~public~~ NONEXCLUSIVE right of vehicular  
40 ingress and egress ~~between THAT IS AT LEAST FORTY FEET IN WIDTH AND THAT~~  
41 ~~SERVES~~ the lots, parcels or fractional interests being created.

42       2. "Minimum applicable county zoning requirements" means the minimum  
43 acreage and dimensions of the resulting lot, parcel or fractional interest as  
44 required by the county's zoning ordinance.

1       3. "PHYSICAL ACCESS" MEANS ROADWAY ACCESS THAT IS AT LEAST TWENTY-FOUR  
2 FEET IN WIDTH, THAT IS TRAVERSABLE BY EMERGENCY VEHICLES AND TWO-WHEEL DRIVE  
3 PASSENGER MOTOR VEHICLES AND THAT SERVES THE LOTS, PARCELS OR FRACTIONAL  
4 INTERESTS BEING CREATED.

5       3- 4. "Utility easement" means an easement of eight feet in width  
6 dedicated to the general public to install, maintain and access sewer,  
7 electric, gas and water utilities.